



U.S. Department of Justice

*United States Attorney
Eastern District of New York*

AB:SEF

*271 Cadman Plaza East
Brooklyn, New York 11201*

September 20, 2010

By ECF and Hand

The Honorable Nicholas G. Garaufis
United States District Judge
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: United States v. James Malpeso
Criminal Docket No. 09-672 (S-1) (NGG)

Dear Judge Garaufis:

The government respectfully submits this letter in further response to the defendant's motion for pretrial release.

In its letter of September 15, 2010, the government noted that the defendant has continued to behave violently since his incarceration in this case. Specifically, on June 2, 2010, the defendant was involved in a fistfight with another inmate at the Metropolitan Detention Center. Enclosed as Exhibit H is a disc containing the surveillance video of this fight, along with the software necessary for viewing it.

The video provides dramatic evidence of the defendant's willingness to resort to violence when it suits him - even when he is incarcerated and knows that he is subject to 24-hour surveillance, and is thus bound to be caught. Accordingly, for the reasons set forth herein, as well as in its letter of September 15, 2010, the government respectfully submits that the

defendant has failed to rebut the presumption of dangerousness, and that he is a danger to the community who should be detained pending trial.

Respectfully submitted,

LORETTA E. LYNCH
United States Attorney

By: /s Stephen E. Frank
Stephen E. Frank
Nicole Argentieri
Gina Parlovecchio
Assistant U.S. Attorneys

cc: Vincent Romano, Esq. (By Fed Ex) (w/ enclosure)